

## REMARKS

In this Response, claims 1, 3 – 10, and 34 have been amended; claims 11 – 22, 24 – 33, and 35 – 39 have been cancelled without prejudice; and claims 40 – 43 have been added. No new matter has been added.

Claims 1 – 10, 34, and 40 – 43 are presently pending.

### 35 U.S.C. §102 Rejections

In the Office Action claims 1-10, and 34 are rejected as being anticipated by Tso et al. (U.S. Patent No. 6,247,050) (hereinafter “Tso”). The Applicants herein traverse the rejections of claim 1-10 and 34.

Claim 1, as amended, recites instructions that cause a processor to:

generate and transmit one or more messages to a receiving computer system, the one or more messages including  
a media message including a first reference;  
logic for testing digital content capabilities of the receiving computer system when the first reference is given effect; and  
logic for displaying a selected one of a plurality of versions of digital content selected based on the results of testing digital content capabilities of the receiving computer system, such that the receiving computer system may use the media message to display the selected version of the digital content.

Claim 1 recites generating and transmitting a media message with a reference that, when given effect, tests a receiving computer system’s capabilities. Logic for displaying digital content selected based on the receiving computer system’s capabilities may also be generated and transmitted to the receiving computer system. The receiving computer system may use the media message to display the selected version of the digital content.

**FIGs. 2 – 7** and associated discussion beginning in paragraph [0025] describe an embodiment corresponding to claim 1. In this embodiment, a media message, e.g., IP message **200** of **FIG. 2**, may be sent to a recipient computer system. This media message may include a first reference, e.g., traversable link **213** or inclusion link **212**. When this reference is given effect, logic to test the capabilities of the recipient computer system may be invoked. A message including logic for displaying a selected

digital content version may also be generated and transmitted, e.g., replace script **430** of **FIG. 4**, such that the receiving computer system may use the media message to display the selected version, e.g., the replaceable section **211** of the initial layer **210** may be replaced with rich media element **513**.

Thus, claim 1 allows for a media message to be sent to a receiving computer system in a manner that allows for the message to facilitate testing of, and adaptation to, the capabilities of the receiving environment. This adaptable message may be sent to any computer system capable of receiving such messages without the need for preexisting knowledge of the characteristics of the receiving computer system.

Tso, on the other hand, teaches a remote scaling server **34** to selectively transcode content based on a predetermined selection criterion for delivery to a network client **12**. Tso, column 4, line 15 *et seq.* The server **34** has scaling settings associated with each client and adjusts content that is delivered according to the scaling settings. Therefore, contrary to claim 1, Tso requires that the server **34** has preexisting knowledge of each client so that any messages being directed to that client will be transcoded prior to delivery based on known capabilities and/or preferences.

There is nothing in Tso to teach a media message that includes a reference to invoke test logic and that may also be used to display a selected version of the digital content. Even if one were to assume that Tso teaches the sending of testing logic to the client, which the Applicants dispute, this would be done prior to any media message being delivered, e.g., at the initial determination of the “predetermined selection criteria.” For at least these reasons, claim 1 is patentably distinct from Tso.

Claims 2 – 5 and 34 depend from, or include limitations similar to, claim 1 and are patentably distinct from Tso for at least the reasons given above. Therefore, the Applicants respectfully request that the Examiner withdraw these rejections of these claims.

Claim 6 recites a method in a computing system for presenting an adaptive message, comprising:

receiving a message in the computing system including a first reference; and  
based on the contents of the received message: testing, when the first reference is given effect, two or more digital content capabilities of the computing system;

selecting one of a plurality of different digital content elements based upon the results of the testing; and presenting the selected one of the plurality of different digital content elements using the message.

As can be seen from the claim language, a message including a first reference is received and, based on the contents of that message, various testing, selecting, and presenting operations are performed. The testing operation results from the first reference being given effect, and the displaying operation uses the message to display the selected digital content element.

As discussed above, Tso merely teaches a server having scaling settings that are used to adjust media content prior to delivery to a network client. Any determination of the capabilities and/or preferences of the client used to establish the scaling settings are done prior to the delivery of the media content message.

For at least this reason, claim 6 is patentably distinct from Tso. Furthermore, claims 7-10 depend from, and include the same limitations as, claim 6 and are patentably distinct from Tso for at least the reasons given above. Therefore, the Applicants respectfully request that the Examiner withdraw this rejection of these claims.

#### New Claims

The Applicants have taken this opportunity to present claims 40 – 43, which ultimately depend on claims 1 or 34. Therefore, these claims are patentable over Tso for at least the same reasons given above with respect to the underlying independent claims.

#### Conclusion

For the above reasons, the Applicants believe that claims 1-10, 34, and 40 - 43 are patentable and respectfully request that the Examiner allow these claims as presented. If the Examiner has any questions, he is invited to contact the undersigned at (503) 796-2972.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,  
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